



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.                                                                                                   | FILING DATE | FIRST NAMED INVENTOR       | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------------------------------------------------------------------------------------------|-------------|----------------------------|---------------------|------------------|
| 10/814,564                                                                                                        | 03/31/2004  | Nico Cocchiarella          | SHPR-01362US2       | 6892             |
| 7590 11/16/2005                                                                                                   |             |                            |                     |                  |
| Sheldon R. Meyer<br>FLIESLER MEYER LLP<br>Fourth Floor<br>Four Embarcadero Center<br>San Francisco, CA 94111-4156 |             | EXAMINER<br>CHOI, STEPHEN  |                     |                  |
|                                                                                                                   |             | ART UNIT 3724 PAPER NUMBER |                     |                  |

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/814,564

Applicant(s)

COCCHIARELLA ET AL.

Examiner

Stephen Choi

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 and 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Group I, Species A in the reply filed on 31 August 2005 is acknowledged. The traversal is on the ground(s) that the inventions identified by the examiner are not independent. This is not found persuasive because the examiner has properly shown that the inventions of the subcombinations (groups I-II) are evidence that the combination (group III) does not rely on these subcombination for patentability according to requirement set forth in MPEP 806.05(c), example 3. Moreover, the species identified by the examiner clearly show or describe patentably distinct embodiments of the claimed invention. It is noted that the applicants have failed to traverse the restriction requirement on the ground that the species are not patentably distinct **with evidence showing the species to be obvious variants or clearly admit on the record that this is the case**. In addition, the applicants have failed to identify claims readable on the elected species, however, it was determined that all claims of the elected invention (i.e., claims 1 and 6-10) are readable on the elected species.

The requirement is still deemed proper and is therefore made FINAL.

### *Specification*

2. The disclosure is objected to because of the following informalities: page 5, lines 14 & 20, "332" should be --336--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

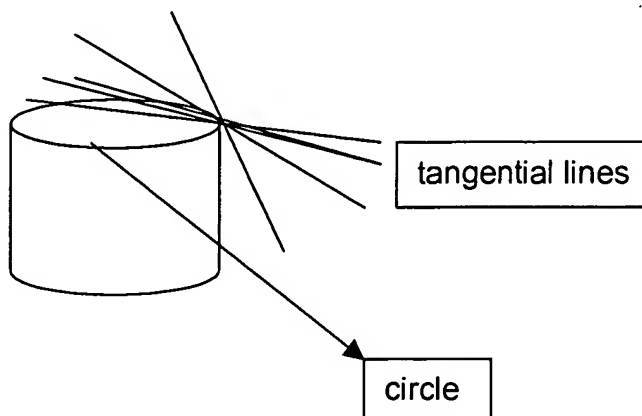
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al. (US 6,607,714).

Taylor discloses all the recited elements of the invention including:

- a) a housing (e.g., 20);
- b) a motor (e.g., 70);
- c) a blade holder (e.g., at 180);
- d) at least one cutter blade including a first cutter portion, a second cutter portion, and a rounded third cutter portion ( Fig. 3A) wherein the second cutter portion forms an angle with the first cutter portion (col. 3, lines 20-22).

Regarding claim 9, a second angle (the second portion (at 190) forms an angle with a line tangential to a circle traced by the cutter blade). Regarding claim 10, there are an infinite number of lines that are tangential to the circle traced by the cutter blade that forms an angle (e.g.,  $2.2^\circ$ ) with portions of the second portion (see Figure below).



**Conclusion**


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reiser et al., Brown, Johannesson, and Andrews are cited to show related devices.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC  
1 November 2005

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**